

Application No.: 10/673,260

Docket No.: 4635-003

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-17 are pending in the application. The claims are unchanged notwithstanding the Examiner's art rejections. The Abstract has been revised to be compliant with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

Applicants acknowledge the defect of the originally filed Declaration. A Substitute Declaration will be filed shortly.

The Examiner's decision to withdraw claims 8-16 from consideration for allegedly being in improper multiple dependent form is *traversed*, because the multiple dependencies of original claims 8-16 have been removed by the Preliminary Amendment filed September 30, 2003. Accordingly, claims 8-16 are in proper dependent form and consideration of these claims is respectfully requested.

The Examiner's rejections of claims 1-7 as being either anticipated by *Gesp* (WO 1997/28774) or obvious over *Gesp* in view of *Loescher* (EP 974,326) are *traversed*, because the applied references singly or in combination fail to disclose, teach or suggest all limitations of the rejected claims.

In particular, Applicants respectfully submit that the Examiner is erroneously reading the landing zone (34) of *Gesp*, where the tape fasteners are not provided, on the claimed side flaps to which tape fasteners are fixed. Therefore, the applied reference of *Gesp* fails to teach or suggest the claimed side flap and fixing tape disposed in proximity of a farthest lateral edge of the side

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flap, wherein said fixing tape and said side flap are to be engaged through a hook member, as recited in independent claim 1.

Furthermore, the *Gesp* reference as applied by the Examiner fails to teach or suggest the claimed diaper, in which each of "side flaps" extends outwardly from an end portion in a direction of a diaper main body, and an engaging region is provided on each of the side flaps. In *Gesp*, landing zone 34, which the Examiner is reading on the claimed engaging region, is not provided on any of the side flaps where the fixing tapes are disposed. Instead, landing zone 34 of *Gesp* is disposed on a different part, i.e., the front portion, of the diaper main body. Accordingly, the applied reference of *Gesp* fails to teach or suggest the claimed engaging region which is to be engaged with the fixing tape and which is part of the side flap on which the fixing tape is disposed.

Finally, the applied reference of *Gesp* does not teach or suggest the claimed engaging region having different engaging forces with the hook member. The *Gesp* reference teaches a landing zone 34 which, according to the Examiner, might have different engaging forces with region 52 and hook 54 of tab 32. Assuming *arguendo* that the *Gesp* landing zone 34 has different engaging forces with region 52 and hook 54 of tab 32, such teaching would be equivalent to a fixing tape (32) having different engaging forces (at 52 and 54) with an "engaging region" (34). The *Gesp* "engaging region" 34 might engage (i) hook member 54 and (ii) region 52 with different engaging forces. However, "engaging region" 34 is not disclosed or suggested by *Gesp* to have different engaging forces with hook member 54 alone. Accordingly, the applied reference of *Gesp* fails to teach or suggest the last limitation of independent claim 1.

For any of the reasons advanced above, Applicants respectfully submit that the rejections of independent claim 1 as well as claims 2-7 depending therefrom are inappropriate and should be withdrawn.

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As to claim 17, Applicants respectfully submit that the applied references, especially *Gesp*, clearly fail to teach or suggest the claimed engaging region... includes therein a non-engaging portion. The *Gesp* "engaging portion" 34 is not disclosed or suggested to include therein "non-engaging portion" 52, because "non-engaging portion" 52 is completely located outside "engaging portion" 34.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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